FEDERAL REGISTER

VOLUME 4 NUMBER 13

Washington, Friday, January 20, 1939

The President

EXECUTIVE ORDER

AMENDING THE FOREIGN SERVICE REGULATIONS OF THE UNITED STATES

By virtue of and pursuant to the authority vested in me by section 1752 of the Revised Statutes of the United States (22 U. S. C. sec. 132), I hereby amend the Foreign Service Regulations of the United States as follows:

1. The following-designated sections of the Regulations are hereby canceled:

PART I.

Sections I–2, II–27, II–30, II–31, II–32, VI–12, VI–13, VI–14, VI–16, XIII–1, XVII–13, and XVII–16.

PART II.

Sections X–167, XI–182, XIV–222, XV–274, XXI–359, XXII–378, XXIII–411, XXIV–484, XXIV–486, XXIV–489R, and XXXI–695.

2. The following-designated Executive orders are hereby revoked:

Executive Orders No. 194 of November 6, 1902, No. 495 of August 13, 1906, No. 641 of June 1, 1907, No. 1950 of May 28, 1914, No. 3157 of August 26, 1919, No. 4681 of July 2, 1927, No. 4701 of August 8, 1927, No. 5295 of March 6, 1930, No. 5345 of May 8, 1930, No. 5417 of August 4, 1930, No. 5468 of October 22, 1930, and No. 5526 of January 7, 1931.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 18, 1939.

[No. 8036]

[F. R. Doc. 39–226; Filed, January 19, 1939; 11:43 a. m.]

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

FARM CREDIT ADMINISTRATION

[FCA–117]

REGULATIONS RELATIVE TO EMERGENCY CROP AND FEED LOANS IN PUERTO RICO MADE PURSUANT TO THE ACT OF CONGRESS APPROVED JANUARY 29, 1937, AS AMENDED

JANUARY 18, 1939.

1. Loans for the production of crops, for planting, cultivating, and harvesting of crops, for supplies incident and necessary to such production, planting, cultivating, and harvesting, or for any of such purposes, will be made during the year 1939, by the Governor of the Farm Credit Administration to farmers in Puerto Rico.

2. Such loans may be made to farmers who have acreage fit for cultivation, the necessary equipment for farming operations, and who are unable to obtain a loan from other sources, and, further, such loans will be limited to the amount necessary to meet the immediate and actual cash needs, and preference shall be given to the applications of farmers whose cash requirements are small.

3. Such loans shall be secured by a first lien upon all crops of which the planting, cultivation, production, or harvesting is to be financed, in whole or in part, with the proceeds of such loan.

4. Applicants must agree (1) to use seed and methods approved by the Department of Agriculture; and (2) to plant and cultivate a garden for home use.

5. The total amount of loans made to any one borrower during the calendar year 1939 shall not exceed $400. No loan will be made for an amount less than $25. All loans will be made in multiples of $5. Notes will bear interest, from maturity until paid, at the rate of 4 percent per annum; and interest

CONTENTS

THE PRESIDENT

RULES, REGULATIONS, ORDERS

NOTICES

(Continued on next page)

FEDERAL REGISTER

Published by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. L. 500), under regulations prescribed by the Administrative Committee, with the approval of the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1 per month or $10 per year; single copies 10 cents each; payable in advance. Remit by money order payable to Superintendent of Documents, Government Printing Office, Washington, D. C.

Correspondence concerning the publication of the FEDERAL REGISTER should be addressed to the Director, Division of the Federal Register, The National Archives, Washington, D. C.

CONTENTS—Continued

to the maturity date at the same rate will be deducted at the time the loan is made.

6. No such loan will be made:

(a) To any applicant who is a standard rehabilitation client of the Farm Security Administration or whose application for a standard loan has been approved by the local supervisor of the Farm Security Administration and forwarded to the regional office for approval, as indicated on lists furnished by the Farm Security Administration.

(b) To any applicant who can obtain a loan from other sources, including production credit associations, in an amount reasonably adequate to meet his needs for the purposes for which such loans may be made. An applicant for a loan in an amount in excess of a minimum fixed by the Governor, or his representative, for the territory in which the applicant resides, must first submit written evidence from a production credit association that his application for a loan of the same or less amount has been rejected.

(c) To any applicant who has an application for a 1939 crop loan pending with a production credit association.

(d) To any applicant who is a tobacco, coffee, fruit, or vegetable grower or grower of any other crops, unless he signs a marketing agreement satisfactory to the representative of the Emergency Crop and Feed Loan Office in Puerto Rico, nor to any cane grower unless he signs or agrees to sign a grinding contract with an approved central or mill.

(e) To any applicant who has not undertaken in good faith to meet his obligations in connection with any previous crop, feed, or seed loans as follows: has willfully misused the proceeds of a loan check for any purpose other than those specified in his application; has failed to plant a crop or has planted crops on lands other than those described in the application; has willfully disposed of crops mortgaged to the Governor, or failed to account satisfactorily therefor without applying the proceeds of the sale or the value thereof as a payment on his loan; has willfully used the crops mortgaged to the Governor for any purpose other than that stated in his application or applications; or has failed to pay all or part of such loan or loans when able to do so.

(f) To any applicant in an amount greater than his immediate cash needs for the production or harvesting of crops and for supplies incident and necessary to such production and harvesting.

(g) To applicants who are occupants of the same farm or plantation, or are tenants of the same landlord (with the exception of tenants on land the title of which is vested directly in the United States or in the Insular Government of Puerto Rico), in an aggregate amount during the calendar year 1939 which (inclusive of all emergency loans theretofore made to them or any of them, during the calendar year 1939, pursuant to the Act of Congress approved January 29, 1937, as amended, exceeds the sum of $2,000.

(h) To any applicant who has a means of livelihood other than farming.

(i) To partnerships, corporations, minors, guardians, agents, executors, or administrators; or, to receivers or trustees.

(j) To either a husband or a wife, if living together, unless both join in the application, note, and lien instrument(s).

(k) To more than one member of a family unit nor to any person living and/or farming with an applicant whose application for a loan hereunder has been disapproved.

(l) For the purchase of machinery or livestock, or for the payment of taxes, rent, debts, or interest or for any purpose other than as specified herein.

7. Loans may be made, subject to the limitations specified herein, in such amounts and in such installments as the Puerto Rican representative of the Emergency Crop and Feed Loan Section may approve.

8. No loan for the production of crops will be made in an amount greater than the immediate and actual cash needs in the particular case to plant the crop in a manner approved by the Extension Service of the Department of Agriculture.

The immediate and actual cash needs in a particular case must not exceed the actual costs per cuerda in such case as determined by individual consideration of the various factors involved, e. g., whether it is necessary to purchase seed, feed, fertilizer, spraying material, and/or fuel for tractors; the cost thereof; and any other incidental expenses currently incurred in that community in connection with the particular crop to be produced. In no event may loans for crop production purposes exceed the following maximum allowances per cuerda:

Maximum Allowances per Cuerda

	(1) Without commercial fertilizer	(2) Where commercial fertilizer is used	(3) Where commercial fertilizer is used upon irrigated land
Long staple cotton	$5.00	$10.00	----------
Tobacco [1]	15.00	35.00	----------
Sugar cane (Gran Cultura)	30.00	45.00	$55.00
Sugar cane (Primavera)	20.00	35.00	45.00
Sugar cane (Ratoon)	10.00	25.00	35.00
Cocoanuts [2]	8.00	20.00	----------
Grapefruit and oranges (6 years and over) [3]	15.00	40.00	50.00
Coffee [4]	7.00	27.00	----------
Pineapples	90.00	150.00	----------
Winter vegetables (for shipment to the States)	10.00	25.00	----------
Miscellaneous crops	5.00	5.00	5.00

[1] A harvesting allowance of $5.00 per cuerda may be made for stalk-cut tobacco, and $15.00 per cuerda for prime tobacco.

[2] When fertilizer is not used, loans shall be limited to $4.00 per thousand estimated yield of cocoanuts and not exceeding 20¢ per tree. When fertilizer is used, loans shall be limited to $10.00 per thousand estimated yield of cocoanuts, not exceeding 50¢ per tree, and not exceeding $20.00 for cuerda in any case.

[3] Not exceeding 30¢ per box estimated crop on tree.

[4] Not exceeding $5.00 per cuerda additional where harvesting advance is made (whether with or without fertilizer).

In addition to the $7.00 allowance provided where fertilizer is not used, $15.00 may be allowed for fertilizer and $5.00 for applying the same.

The use of fertilizer is optional with the borrower, but if an allowance is made for such purpose the following table indicates, for varying acreages in coffee, the number of acres which in each instance is the minimum that must be fertilized and the maximum for which an allowance will be approved:

No. acres in coffee:	*No. acres which must be fertilized and in excess of which no allowance will be approved*
1– 5 (inclusive)	½
6–10 (inclusive)	1
11–20 (inclusive)	2
21–40 (inclusive)	3
Over 40 (inclusive)	4

The application of fertilizer must be in accordance with the best methods advocated by the Extension Service, and must be under the supervision of the Extension Service field force.

9. The amount approved for a loan by the Governor or his representative under these regulations will be paid to the applicant by a disbursing officer upon receipt and approval by the Governor or his representative of the following documents:

(a) Application in the form prescribed, signed by the applicant.

(b) Promissory note in the form prescribed, executed by the applicant for the amount approved by the Governor or his representative, payable to the Governor, bearing interest at the rate of 4 percent per annum from maturity until paid.

(c) Lien instruments (including waivers) in the form prescribed, conveying a first lien, properly executed and filed, registered, or recorded in the proper office, as required by law.

(d) A voucher for the amount of the loan in the form prescibed, signed by the applicant.

10. Fees for recording, filing, registration, and examination of records (including certificates) shall be paid by the borrower; provided, however, that such fees aggregating not to exceed 75 cents per loan may be paid by him from the proceeds of the loan. No fees for releasing liens given to secure loans shall be paid from the proceeds of a loan.

11. The right is reserved to revoke, alter, or amend these regulations at any time and without notice.

[SEAL] F. F. HILL,
Governor.

[F. R. Doc. 39–235; Filed, January 19, 1939; 12:02 p. m.]

[FCA 118]

THE FEDERAL LAND BANK OF HOUSTON

DEPOSITS AND FEES FOR ABSTRACT HANDLING

Sec. 30.9 of Title 6, Code of Federal Regulations is amended to read as follows:

"SEC. 30.9 *Deposits of fees for abstract handling.* The Abstract Section is authorized to charge and collect from the borrower of all abstracts loaned by The Federal Land Bank of Houston and the Land Bank Commissioner, where proper deposit has been made, the following fees:

"(a) A handling fee of $2.00 where the abstracts are returned to the Bank in as good condition as when delivered.

"(b) A handling fee of an additional $2.00 per loan file, when it becomes necessary to go into the files of additional loans to supply the abstracts borrowed.

"(c) A handling fee of $1.00 per loan file where, after the abstracts are forwarded to the borrower of the abstracts, the related loan is paid in full and released.

"(d) A reexamination fee of $5.00 is charged where reexamination of the abstracts becomes necessary by reason of their alteration while in the possession of the borrower of the abstracts or other persons. The necessity for the examination must be approved by the General Counsel of The Federal Land Bank of Houston.

"(Sec. 13 'Ninth', 39 Stat. 372, 12 U. S. C. 781 'Ninth'; Sec. 32, 48 Stat. 48, as amended, 12 U. S. C. 1016; Sec. 1, 48 Stat. 344, 12 U. S. C. 1020; Sec. 2, 48 Stat. 345, 12 U. S. C. 1020a) [Res. Ex. Com., November 7, 1938]"

[SEAL] THE FEDERAL LAND BANK OF HOUSTON,
By A. P. GRAVES, *Vice-President.*

[F. R. Doc. 39–236; Filed, January 19, 1939; 12:02 p. m.]

[FCA 119]

THE FEDERAL LAND BANK OF SPOKANE

PARTIAL RELEASE OF SECURITY FEES

Sec. 32.2 of Title 6, Code of Federal Regulations, is amended to read as follows:

"SEC. 32.2 *Partial release of security fees.* On each application for a partial release of security, a fee is charged as follows:

Single application	*Fee*
If no appraisal required	$5.00
If appraisal required	20.00
Joint application (Federal Land Bank loan and Land Bank Commissioner loan)	
If no appraisal required	$7.50
If appraisal required	22.50

"In all cases involving the subdivision of any portion of the property, where more than one individual partial release is desired, the borrower shall be charged $10.00 plus the actual cost of appraisal, even though the total amount exceeds $20.00.

"(Sec. 13 'Ninth', 39 Stat. 372, 12 U. S. C. 781 'Ninth'; Sec. 32, 48 Stat. 48, as amended, 12 U. S. C. 1016; Sec. 1, 48 Stat. 344, 12 U. S. C. 1020; Sec. 2, 48 Stat. 345, 12 U. S. C. 1020a) [Res. Ex. Com., January 4, 1939]"

[SEAL] THE FEDERAL LAND BANK OF SPOKANE,
By E. M. EHRHARDT, *President.*

[F. R. Doc. 39–237; Filed, January 19, 1939; 12:02 p. m.]

TITLE 7—AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

[F. C. I. R.—Series 1, No. 1, Supp. 2]

PART 401—AMENDMENTS TO REGULATIONS RELATING TO WHEAT CROP INSURANCE

By virtue of the authority vested in the Federal Crop Insurance Corporation by the Federal Crop Insurance Act, approved February 16, 1938, as amended by Public Law No. 691, 75th Congress, approved June 22, 1938, the regulations relating to wheat crop insurance adopted by the Board of Directors of the Federal Crop Insurance Corporation on April 26, 1938, and approved by the Secretary of Agriculture on April 28, 1938, as amended,[1] are hereby further amended to read, as follows:

1. Section 61, as amended, is hereby amended to read, as follows:

SEC. 61. *Payment of premium in wheat.*—(a) When premiums are paid in wheat such payments shall be made by the delivery of a negotiable warehouse receipt representing the quantity, class, and grade of wheat specified in the premium notice. Warehouse receipts shall be accepted only when issued by a warehouse designated in the premium notice. Except as may otherwise be provided by the Corporation, premiums shall not be paid with wheat of a lower grade than No. 3 nor with wheat not classified as a straight or unqualified grade. No warehouse receipt will be accepted in payment of the premium unless it is delivered at the office of the county committee for the county in which the farm is located within the time fixed by the Corporation, and unless there are no warehousing charges or other liens outstanding against the wheat represented by the receipt at the time of such delivery other than the usual charges for receiving, and storage from the date of issuance of the receipt to the time of delivery. Premiums shall not be regarded as paid until the warehouse receipts used in payment of such premiums are accepted by a representative of the Corporation duly authorized for that purpose.

(b) If for any reason whatsoever it appears at any time that the transfer of the warehouse receipt to the Corporation did not convey to it complete and unencumbered title to the receipt and the wheat represented thereby, except as provided in subsection (a) of this section, or if at any time the Corporation's

[1] 3 F. R. 1013, 1987 DI.

title to such receipt or wheat is drawn into question by any person, then, unless the stipulated premium is paid on demand by the Corporation, the policy shall at the option of the Corporation become void, and in case any payments have been made thereunder they shall be refunded to the Corporation.

2. Section 62, as amended, is hereby amended to read, as follows:

SEC. 62. *Payment of premium in cash equivalent.*—Payment of premiums in cash equivalent shall be made in cash, check, money order, or bank draft. Checks and drafts will be accepted subject to collection. Except as may otherwise be provided by the Corporation, the cash equivalent of any premium shall be determined by multiplying the number of bushels of wheat of the basic class and grade specified in the premium notice by the basic market price of such wheat at a basic market designated by the Corporation for the area in which the farm is located less an amount per bushel, fixed by the Corporation, representing freight and other usual charges in connection with the movement and handling of wheat between the local station fixed by the Corporation for the farm and the specified basic market.

3. Section 63 is hereby amended to read, as follows:

SEC. 63. *Deposits of payments to be applied toward future premiums.*—(a) Any person whose application for a policy with respect to any farm has been approved by the Corporation for a current crop year may, subject to the approval of the Corporation, tender for deposit payments, not in excess of the amount of the premium specified in the premium notice for such policy, to be applied toward the premium on a policy for the next succeeding crop year.

(b) Deposits may be made either in wheat or in cash. Deposits of wheat shall be made in accordance with the provisions of section 61 (a) of these regulations, relating to the payment of premiums in wheat. One warehouse receipt may be delivered to cover both the premium and the deposit.

(c) If, for any reason whatsoever, it appears at any time that the transfer of a warehouse receipt, evidencing a deposit of wheat, to the Corporation did not convey to it complete and unencumbered title to the receipt and the wheat represented thereby, except as is provided in subsection (b) of this section, or if at any time the Corporation's title to such receipt or wheat is drawn into question by any person, then, unless such question is immediately settled without cost to the Corporation, the depositor shall indemnify and save the Corporation harmless against all actions, proceedings, claims, demands, costs, damages, and expenses which may be brought or made against it or which it may pay, sustain, or incur in connection with such receipt or wheat. Without limitation of any other right or remedy of the Corporation, such charges may be set off against any indemnity which may be or become due under any policy issued to the depositor or in which he may have an interest.

(d) All deposits of cash will be credited to the depositor's account in terms of the wheat equivalent of such cash deposit. The equivalent in wheat of any cash deposit will be determined on the same basis as that used in fixing the cash equivalent specified in the premium notice in connection with which the deposit is made.

(e) The depositor shall have no title or interest in any wheat (including any wheat deposited) held by the Corporation. The Corporation shall be liable to the depositor only for the cash equivalent of the amount of wheat credited to the depositor's account, such cash equivalent to be determined in accordance with the provisions of section 90 of these regulations.

4. Section 70 is hereby amended to read, as follows:

SEC. 70. *Time of loss.*—Loss shall be deemed to have occurred at the time of the completing of threshing of the insured crop (unless combined and sacked in which event the loss shall be deemed to have occurred 120 hours thereafter) or noon of the first day of October, whichever occurs first, unless there is a total or substantially total destruction of the insured crop at an earlier time in either of which events the loss shall be deemed to have occurred at the time of such total or substantially total destruction, as the case may be. A wheat crop shall be deemed to have been substantially totally destroyed if it has been damaged to such an extent as to make it impracticable further to care for such crop. If, for any policy, the Corporation extends the period of insurance beyond noon of the first day of October, by endorsement in writing added to the policy or by use of a form provided for such purpose, signed by the Manager and countersigned by an authorized representative of the Corporation, the time of loss shall be deemed to have occurred as provided in this section, except that the date to which the insurance is extended shall be used in lieu of October 1st.

5. Section 90, as amended, is hereby amended to read, as follows:

SEC. 90. *Computation of refunds; claims for refunds.*—(a) Any refund of premiums or payments deposited for application toward the payment of future premiums and not so applied (whether made pursuant to the provisions of the contract or these regulations or required by law) shall be made only in the cash equivalent of the quantity of wheat to be refunded less an amount, fixed by the Corporation, of not exceeding one-twentieth of one cent per day per bushel to cover storage and handling expenses. The period for which such deductions shall be computed shall commence with and include the day following the day on which the premium or deposit was delivered to a representative of the Corporation authorized to receive premiums or deposits. Such period shall end with and include the day on which payment of the refund is approved by the Corporation.

(b) Claims for refunds shall be made on forms prescribed by the Corporation. Except as may otherwise be provided by the Corporation, no claim for refund of a deposit shall be paid prior to the final closing date fixed by the Corporation for the receipt of applications for the crop year for which the deposit was made in the county where the farm in connection with which the deposit was made is located. Nothing in this subsection shall be construed to restrict the Corporation's right to refund any deposit at such earlier time as it may determine.

(c) The cash equivalent of any refund shall be determined in accordance with the rules provided by these regulations for the conversion of indemnities into their cash equivalents, except that the basic market and the current basic market price to be applied under this subsection shall be those applicable for the day when payment of the refund is approved by the Corporation. No refund shall be made if the amount thereof is less than twenty-five cents.

6. Section 91, as amended, is hereby amended to read, as follows:

SEC. 91. *Refund of excess premium.*—In any case where the total insured production is adjusted in accordance with the provisions of section 41 of these regulations, the premium allocable to the acreage equal to the difference between the acreage used in adjusting such total insured production and the acreage specified in the policy as proposed to be seeded shall be credited to the insured's account as a deposit to be applied toward the premium on a policy for the next succeeding crop year, unless the insured indicates on a form prescribed by the Corporation that he elects to have such excess premium refunded. Any amount credited to the insured's account pursuant to this subsection shall be deemed to have been deposited on the date of delivery of the premium.

7. Section 93, as amended, is hereby amended to read, as follows:

SEC. 93. *Assignment of claims for refunds; creditors.*—(a) No claim solely for a refund, or any part or share thereof, or interest therein, shall be transferable, provided, however, that in any case where the Corporation has recognized an assignment of the policy pursuant to the provisions of section 106 of these regulations, the Corporation reserves the right to make payment of the refund jointly to the assignor and assignee, and payment in such manner

shall constitute a complete discharge of the Corporation's obligation with respect to such refund.

(b) The provisions of section 107 of these regulations shall be applicable to the payment of refunds.

8. Section 106 is hereby amended to read, as follows:

SEC. 106. *Limitation on transfer.*—(a) General: Except as is otherwise provided in these regulations neither the policy nor any claim for indemnity thereunder, or any part or share thereof, or any interest therein, shall be transferable, nor shall any pledge of the policy be recognized. Notwithstanding any assignment, power of attorney, order, or other authority for receiving payment of any claim for indemnity under the policy, any indemnity payable in accordance with the provisions of the policy shall be paid only to persons entitled to the benefit of the policy as provided in the policy and these regulations.

(b) Assignment to secure loans and amounts due under lease, purchase, mortgage or trust agreement: A policy may be assigned, with the approval of the Corporation as collateral security for (1) a loan made for the payment of a premium, (2) a loan for the making of a deposit to be applied toward future premiums, or (3) a loan for the care of the insured crop, provided that in the case of a loan the assignee's interest shall not exceed the amount of the advance plus a reasonable amount for interest, discount, and other charges; for (4) the amount of the current year's rental due under a leasing agreement with respect to the farm upon which the insured crop is or will be seeded; and for (5) the amount of the current annual installment due under a purchase, mortgage, or trust agreement with respect to the farm upon which the insured crop is or will be seeded, and in addition, an amount of any delinquency which may be due under the purchase, mortgage, or trust agreement of not to exceed the amount of the current annual installment including interest, plus taxes. Upon recognition of such assignment, by endorsement in writing added to the policy or by use of a form provided by the Corporation for such purpose, signed by the Manager and countersigned by a duly authorized representative of the Corporation, any indemnity payable under the policy will be paid only in cash to the assignee and such other persons as may be entitled to such indemnity as their interests may appear, or by joint check, provided, however, that payment of any indemnity nevertheless will be subject to all conditions and provisions of the policy.

(c) Assignment of the policy with transfer of crop: An assignment of the policy before the time of loss will be recognized only in connection with the voluntary transfer by the insured of his entire interest in an insured crop before the crop is cut. Approval of any such assignment shall be evidenced by endorsement in writing added to the policy or by use of a form provided by the Corporation for such purpose, signed by the Manager and countersigned by a duly authorized representative of the Corporation. The Corporation shall in no case be bound to accept notice of any such assignment of the policy, and nothing herein contained shall give any right against the Corporation to any person other than the insured, except to an assignee approved by the Corporation. A transfer made in order to forestall loss of the property covered by the policy by operation of law shall not be regarded as a voluntary transfer within the meaning of these regulations.

(d) The Corporation's approval of an assignment shall not create in the assignee any right other than that derived from the assignor. Its determinations and findings with respect to any assignment shall be final and conclusive and binding upon the parties thereto.

Adopted by the Board of Directors on December 28, 1938.

[SEAL] M. L. WILSON,
Chairman.

Approved, January 17, 1939.

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-215; Filed, January 18, 1939, 12:18 p. m.]

SUGAR DIVISION

PART 802—SUGAR DETERMINATIONS

DETERMINATION OF FAIR AND REASONABLE WAGE RATES FOR PERSONS EMPLOYED IN THE PLANTING AND CULTIVATING OF SUGARCANE IN THE MAINLAND CANE SUGAR AREA DURING THE CALENDAR YEAR 1939

Whereas, Section 301 (b) of the Sugar Act of 1937 provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(b) That all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended, and the differences in conditions among various producing areas: *Provided, however,* That a payment which would be payable except for the foregoing provisions of this subsection may be made, as the Secretary may determine, in such manner that the laborer will receive an amount insofar as such payment will suffice, equal to the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment.

and

Whereas, The Secretary of Agriculture has held a number of public hearings in the mainland cane sugar area for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable wage rates for persons employed in the planting and cultivating of sugarcane during the period from January 1, 1939, to December 31, 1939.

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearings and all other information before me, do hereby determine that:

SEC. 802.24c *Fair and reasonable wage rates for persons employed in the planting and cultivating of sugarcane in the mainland cane sugar area during calendar year 1939.* The requirements of Section 301 (b) of the Sugar Act of 1937 shall be deemed to have been met with respect to any planting and cultivating of sugarcane in the mainland cane sugar area during the period from January 1, 1939, to December 31, 1939, if all persons employed on the farm during that period in the planting and cultivating of sugarcane shall have been paid in full for all such work and shall have been paid wages in cash therefor at rates not less than the following:

Louisiana.—For adult male workers, not less than $1.20 per day of nine hours; for adult female workers not less than $1.00 per day of nine hours. For a working day longer or shorter than nine hours, the rate shall be not less than 13 cents per hour for adult male workers and 11 cents per hour for adult female workers.

Florida.—For adult male workers not less than $1.60 per day of nine hours; for adult female workers not less than $1.30 per day of nine hours. For a working day longer or shorter than nine hours, the rate shall be not less than 18 cents per hour for adult male workers and 14 cents per hour for adult female workers.

Provided, however, That the producer shall furnish to the laborer, without charge, the customary perquisites, such as, a habitable house, a suitable garden plot with facilities for its cultivation, pasturage for livestock, medical attention, and similar incidentals; and *Provided, further,* That if work is performed on any piece rate basis the earnings per hour or per day shall not be less than the rates per hour and per day specified above for male and female workers, respectively; and *Provided further,* That the producer shall not, through any subterfuge or device whatsoever, reduce the wage rates to laborers below those determined above. (Sec. 301, 50 Stat. 909; 7 U. S. C., Sup. III, 1131)

Done at Washington, D. C., this 19th day of January, 1939. Witness my hand and seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 39-233; Filed, January 19, 1939; 11:54 a. m.]

PART 802—SUGAR DETERMINATIONS

DETERMINATION OF FARMING PRACTICES TO BE CARRIED OUT ON FARMS IN STATES OTHER THAN CALIFORNIA IN CONNECTION WITH THE PRODUCTION OF SUGAR BEETS DURING THE CROP YEAR 1939

Whereas, Section 301 of the Sugar Act of 1937 authorizes the Secretary of Agriculture to make payments under specified conditions with respect to sugar or liquid sugar commercially recoverable from the sugar beets or sugarcane grown on a farm for the extraction of sugar or liquid sugar; and

Whereas, the condition with respect to farming practices, as stated in subsection (e) of section 301 of the said act, is as follows:

"That there shall have been carried out on the farm such farming practices in connection with the production of sugar beets and sugarcane during the year in which the crop was harvested with respect to which a payment is applied for, as the Secretary may determine, pursuant to this subsection, for preserving and improving fertility of the soil and for preventing soil erosion, such practices to be consistent with the reasonable standards of the farming community in which the farm is situated."

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that:

SEC. 802.13a *Farming practices in connection with the production of sugar beets during the crop year 1939 in States other than California.* The condition prescribed in Subsection (e) of Section 301 of the Sugar Act of 1937 shall be deemed to have been fulfilled with respect to the production of the 1939 crop of sugar beets on any farm, if there is carried out on land on the farm which is adapted to the production of sugar beets not less than one acre of soil conserving practices for each acre of sugar beets planted on the farm for harvest in 1939: *Provided, however,* That not in excess of 75 per cent of the foregoing requirements in connection with rented acreage which would otherwise be part of another farm, may consist of practices carried out on such farm in excess of any practices required thereon.

For the purposes of this determination:

(a) Each of the following shall be deemed to be one acre of soil conserving practices:

(1) Maintaining until after July 1, 1939, one acre of a protective covering of adapted perennial or biennial legumes, adapted perennial grasses, or mixtures of such legumes and grasses; or

(2) Seeding in 1939 one acre of adapted perennial legumes (except alfalfa) or biennial legumes, adapted perennial grasses or mixtures of such legumes and grasses; or

(3) Seeding in 1939 one-half acre of adapted alfalfa; or

(4) Seeding and maintaining until after December 31, 1939, one acre of an adapted green manure crop or plowing under during 1939 one acre of a good stand and a good growth of an adapted green manure crop; or

(5) Applying during 1939 eight short tons of animal manure or the amount of manure normally produced in one year by any of the following: two head of cattle (of more than one year of age), two horses, two mules, four calves, four colts, ten sheep, or ten goats; or

(6) Applying during 1939 to land on which sugar beets are planted for harvest in 1939, 75 pounds (or 50 pounds in the case of peat or muck land, determined as such by the State Agricultural Conservation Committee) of net available nitrogen, potash and/or phosphoric acid in the form of commercial chemical fertilizer.

(b) Adapted perennial or biennal legumes, or adapted perennial grasses, or mixtures thereof, or adapted green manure crops, shall be deemed to be those perennial or biennial legumes, or perennial grasses, or mixtures thereof, or green manure crops which are approved under the 1939 State Agricultural Conservation Program as being adaptable for the State in which the farm is located.

All of the foregoing soil conserving practices shall be carried out in accordance with farming methods commonly used in the community in which the farm is located. (Sec. 301, 50 Stat. 909, 7 U. S. C., Sup. III, 1131.)

Done at Washington, D. C., this 19th day of January, 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-232; Filed, January 19, 1939; 11:54 a. m.]

TITLE 29—LABOR

CHILDREN'S BUREAU

[Regulation No. 9]

CHILD LABOR

PART 402. ACCEPTANCE OF STATE CERTIFICATES

JANUARY 18, 1939.

SEC. 402.6 *Designation of States.* Pursuant to the provisions of section 401.5 (section 5 of Child Labor Regulation No. 1, entitled "Certificates of Age" issued October 14, 1938 *) I do hereby designate the following State as a State in which State age, employment, or working certificates or permits shall have the same force and effect as Federal certificates of age under the Fair Labor Standards Act of 1938:

Wyoming

This designation shall be effective from and after the date hereof until the expiration of the period of six months from and after October 24, 1938.

[SEAL] KATHARINE F. LENROOT,
Chief of the Children's Bureau.

[F. R. Doc. 39-220; Filed, January 19, 1939; 10:39 a. m.]

* Issued pursuant to the authority conferred by sections 3 (1) and 11 (b) of the Fair Labor Standards Act of 1938 (52 Stat. 1060); 3 F. R. 2487 DI.

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

TEMPORARY STOCK DRIVEWAY WITHDRAWAL NO. 20, NEW MEXICO NO. 2, MODIFIED AND DESIGNATED STOCK DRIVEWAY WITHDRAWAL NO. 254, NEW MEXICO NO. 14

JANUARY 6, 1939.

It appearing that Temporary Stock Driveway Withdrawal No. 20, New Mexico No. 2, made by departmental order of February 14, 1919, should be modified by adding certain lands thereto and excluding certain lands therefrom, it is ordered under and pursuant to the provisions of section 7 of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and section 10 of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, that the following described lands, excepting any mineral deposits therein, be, and they are hereby, withdrawn from all disposal under the public land laws and reserved for use by the general public as an addition to such driveway reservation, subject to valid existing rights:

NEW MEXICO PRINCIPAL MERIDIAN

T. 31 N., R. 8 E.,
sec. 3, E½ NE¼ and S½;
T. 32 N., R. 8 E.,
sec. 25, S½ NW¼ and SW¼,
sec. 26, SE¼ NE¼ and SE¼,
sec. 34, SE¼ SE¼,
sec. 35, NE¼ and S½;
T. 32 N., R. 9 E.,
sec. 19, lot 1 and S½ SE¼,
sec. 20, lots 2, 3, 4, S½ SW¼ and SW¼ SE¼; aggregating 1,679.57 acres.

Any mineral deposits in such lands shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

And the above mentioned departmental order of February 14, 1919, is hereby revoked in so far as it affects the following described lands:

T. 31 N., R. 8 E., W½ of secs. 12, 13 and 24, 960 acres.

HARRY SLATTERY,
Under Secretary of the Interior.

[F. R. Doc. 39-219; Filed, January 19, 1939; 10:20 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket Nos. 53–FD, 30–FD]

IN THE MATTER OF THE APPLICATION OF WHEELING STEEL CORPORATION AND CONSUMERS MINING COMPANY

FOR EXEMPTION FROM THE PROVISIONS OF SECTION 4 OF THE BITUMINOUS COAL ACT OF 1937, AS AUTHORIZED BY THE SECOND PARAGRAPH OF SECTION 4–A OF SAID ACT

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 18th day of January 1939.

It appearing, That on the 8th day of November, 1937 a petition was filed by the Wheeling Steel Corporation, in which the Emperor Coal Company and the Consumers Mining Company joined, wherein the petitioners pray that the Findings as to the Facts and the Conclusion, on which were based Orders dated October 13, 1937,[1] in the above entitled matters denying exemption from the provisions of Section 4 of the Act as to the coal produced at the Harmar Mine of the Consumers Mining Company and the Freeburne Mine of the Emperor Coal Company and consumed by the Wheeling Steel Corporation, be supplemented by additional findings showing the relationship between the parent and subsidiary corporations involved herein; and further praying for suspension of the Orders dated October 13, 1937 pending disposition of the aforesaid petition; and

It further appearing, That pending oral argument upon the aforesaid petition, the Commission suspended its Orders dated October 13, 1937 in the above-entitled matters; and that the cause came on for oral argument, pursuant to due notice, before the Commission on the 7th, 8th and 21st days of March, 1938; and in the course of said oral argument, upon motion of petitioners' counsel, the Commission permitted the withdrawal of the application of the Emperor Coal Company, Docket No. 31–FD; and

The Commission, after due consideration of the entire record herein, including the aforesaid petition and oral argument thereon, having on the date hereof made and filed Supplemental Findings and Conclusion in the above entitled matter, which is hereby referred to and made a part hereof,

Now, therefore, It is hereby ordered:

1. That the Orders of the Commission dated October 13, 1937, in the matters of the applications of the Wheeling Steel Corporation, Docket No. 53–FD, and Consumers Mining Company, Docket No. 30–FD, for exemption, be and the same are hereby reinstated and given full force and effect as of the 18th day of January, 1939.

2. That the Secretary of the Commission is forthwith directed to mail copies of this Order, together with copies of "Supplemental Findings and Conclusions" to the petitioners above named, to the Secretary of each of the Bituminous Coal Producers Boards, to the Consumers' Counsel, and to the Commissioner of Internal Revenue; and shall cause a copy of same to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 18th day of January, 1939.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 39–229; Filed, January 19, 1939; 11:43 a. m.]

[Docket No. 60–FD]

ORDER IN THE MATTER OF THE APPLICATION FOR EXEMPTION OF THE REPUBLIC STEEL CORPORATION FROM THE PROVISIONS OF SECTION 4 AND THE FIRST PARAGRAPH OF SECTION 4–A OF THE BITUMINOUS COAL ACT OF 1937

At a regular session of the National Bituminous Coal Commission held in its offices in Washington, D. C. on the 18th day of January 1939.

The above-named applicant having heretofore filed with the Commission its application for exemption from the provisions of Section 4 and the first paragraph of Section 4–A of the Bituminous Coal Act of 1937; and

The application having come on to be heard on the 30th day of September, 1937, before Robert C. Patterson, Examiner, in the Rose Room of the Washington Hotel, Washington, D. C., and the attorney for the applicant having made a motion to withdraw the application for exemption,

Now, therefore, It is hereby ordered:

That the motion to withdraw the application for exemption filed by the Republic Steel Corporation is hereby granted as of the date of this order.

The Secretary of the Commission is directed forthwith to mail a copy of this order to the applicant above named, to the Consumers' Counsel, to the Secretary of each District Board, to the Commissioner of Internal Revenue, and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated at Washington, D. C., this 18th day of January, 1939.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 39–230; Filed, January 19, 1939; 11:44 a. m.]

[1] 2 F. R. 2393–2396 (2777–2780 DI).

[Docket No. 12]

IN THE MATTER OF PRESCRIBING DUE AND REASONABLE MAXIMUM DISCOUNTS OR PRICE ALLOWANCES BY CODE MEMBERS TO "DISTRIBUTORS" UNDER SECTION 4, PART II (H), OF THE BITUMINOUS COAL ACT OF 1937, AND ESTABLISHING RULES AND REGULATIONS FOR THE MAINTENANCE AND OBSERVANCE BY DISTRIBUTORS IN THE RESALE OF COAL, OF THE PRICES AND MARKETING RULES AND REGULATIONS TO BE ESTABLISHED BY THE COMMISSION

AN ORDER PROPOSING RULES AND REGULATIONS TO REQUIRE THE MAINTENANCE AND OBSERVANCE OF THE PRICES AND MARKETING RULES AND REGULATIONS BY DISTRIBUTORS, AND NOTICE OF RESUMPTION OF HEARING

Whereas, A hearing[1] in the above-entitled proceeding was held before the National Bituminous Coal Commission in the City of Washington, D. C., on the 25th day of April, 1938, to the 5th day of May, 1938, both dates inclusive, on which latter date said hearing was continued to the 27th day of June, 1938, and thereafter, on the 10th day of June, 1938, continued indefinitely, to be resumed upon further notice by the Commission, and

Whereas, Said hearing was continued for the purpose of receiving further evidence relating to the subject matter thereof, and to permit the cross-examination of certain witnesses who testified as to the cost of distributing coal, after the individual cost returns made by producers of bituminous coal had been made available for inspection, and

Whereas, Upon the resumption of said hearing the Commission will propose rules and regulations for the maintenance and observance by distributors in the resale of coal, of the prices and marketing rules and regulations to be established by the Commission, which proposed rules and regulations are attached hereto and by this reference made a part hereof.

Now, therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That the hearing in the above-entitled matter be resumed, and Notice is hereby given that the Commission will, on the 31st day of January, 1939, at the hour of 10 o'clock, a. m., in the Hearing Room of the Commission, Washington, D. C., resume said hearing for the purpose of receiving evidence relating to the aforesaid proposals, and for the purposes as set forth in the original Notice of Hearing: Provided, however, that the hearing relating to the maximum discounts or price allowances that may be made by code members to distributors will be set for a time and place to be later designated by the Commission.

[1] 3 F. R. 657, 807, 1395 DI.

2. That, at said hearing, the Commission will offer, as its proposals, rules and regulations designed to require the maintenance and observance of the prices and marketing rules and regulations by distributors, and all interested parties will be afforded an opportunity to present evidence relating to the propriety and reasonableness thereof, and such other evidence as properly comes within the scope of said hearing.

3. Findings and Conclusions of the Commission to be made upon a consideration of all of the evidence adduced in Docket No. 12, as to the rules and regulations for the maintenance and observance by distributors, in the resale of coal, of the prices and marketing rules and regulations to be established by the Commissison, shall not be limited to the specific proposals herein made, but such proposals shall be subject to such modifications or enlargements that may be supported or warranted from a consideration of the entire record in this Docket.

4. That the Secretary of the Commission be and he is hereby directed to cause a copy of this Order and Notice, together with a copy of the attached proposals, to be published forthwith in the FEDERAL REGISTER, and to cause copies hereof, together with said proposals, to be mailed to the Consumers' Counsel, to the Secretary of each District Board, to each code member within the several districts and to each party who has entered an appearance herein, and to cause copies hereof, together with said proposals, to be made available for inspection by interested parties at the Office of the Secretary of the Commission, Washington, D. C., and at the office of each Statistical Bureau of the Commission.

By order of the Commission.

Dated at Washington, D. C., this 16th day of January, 1939.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 39-228; Filed, January 19, 1939; 11:43 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[ACP-1938-25]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 22

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended,[1] is hereby further amended as follows:

Subdivision 6 of subsection B of section I, State acreage allotments of commercial potatoes, is amended by changing the acres figure for the State of Virginia from 49,338 to 51,000 and by changing the total acres figure from 1,569,669 to 1,571,331.

Done at Washington, D. C., this 19th day of January, 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-234; Filed, January 19, 1939; 11:54 a. m.]

[1] 3 F. R. 3184 DI.

Sugar Division.

1939 SUGAR QUOTA FOR MAINLAND CANE SUGAR AREA

NOTICE OF HEARING AND DESIGNATION OF PRESIDING OFFICERS

Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public, No. 414, 75th Congress) and on the basis of the information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of the 1939 sugar quota for the Mainland Cane Sugar Area is necessary to prevent disorderly marketing of such sugar and to afford all interested persons an equitable opportunity to market such sugar in the continental United States, and hereby give notice that a public hearing will be held at Atlanta, Georgia, in the Appeals Court Room, No. 324, Old Post Office Building, on February 7, 1939, at 10 a. m.

The purpose of such hearing is to receive evidence to enable the Secretary of Agriculture to make a fair, efficient, and equitable distribution of the 1939 sugar quota for the Mainland Cane Sugar Area among persons who market such sugar in the continental United States.

Robert H. Shields, Walter G. Green, and John C. Bagwell are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearing.

Done at Washington, D. C., this 18th day of January, 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-231; Filed, January 19, 1939; 11:54 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 316]

ALLOCATION OF FUNDS FOR LOANS

JANUARY 10, 1939.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
North Carolina 9032A1 Person	$200,000
North Carolina 9033A1 Martin	225,000
North Carolina 9034A1 Anson	300,000
North Carolina 9035A1 Davidson	32,900
North Carolina R9035A2 Davidson	243,100
North Carolina R9036A1 Randolph	300,000
North Carolina R9037A1 Davie	200,000
North Carolina R9038A1 Carteret	50,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 39-217; Filed, January 18, 1939; 3:14 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its offices in the City of Washington, D. C., on the 12th day of January, A. D. 1939.

[File No. 1-1810]

IN THE MATTER OF ASSOCIATED GAS AND ELECTRIC COMPANY COMMON STOCK, $1 PAR VALUE, AND CLASS A STOCK, $1 PAR VALUE

ORDER FOR HEARING

I

It appearing to the Commission:

That the Associated Gas and Electric Company, a corporation organized under the laws of New York (hereinafter sometimes referred to as the registrant), is the issuer of Common Stock, $1 Par Value and Class A Stock, $1 Par Value; and

That said Associated Gas and Electric Company registered its Common Stock, $1 Par Value, on the Boston Stock Exchange, a national securities exchange, by filing on or about June 15, 1935, an application with the said Exchange and with the Commission pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule X-12B-1, as amended (formerly designated as Rule JB1), promulgated by the Commission thereunder; and

That said Associated Gas and Electric Company registered its Class A Stock, $1 Par Value, on the Boston Stock Exchange, the Los Angeles Stock Exchange and the New York Curb Exchange, national securities exchanges, by filing on or about June 15, 1935, an application with said exchanges and with the Commission pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to said Rule X-12B-1 promulgated by the Commission thereunder; and

That said Associated Gas and Electric Company filed on or about April 29, 1936, on or about April 30, 1937, and on or about May 27, 1938, its annual reports on Form 10-K for the respective fiscal years ended December 31, 1935, December 31, 1936, and December 31, 1937, pursuant to

Section 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, and Rules X–13A–1 and X–13A–12 (formerly designated as Rules KA1 and KA2) promulgated by the Commission thereunder; and

That there are reasonable grounds for believing that the Associated Gas and Electric Company has failed to comply with said Section 12 (b) and said Section 13 (a) and (b) and the rules and regulations promulgated thereunder, in that the applications for registration on Form 10 and the annual reports on Form 10–K, filed by the registrant, contain statements which at the time and in the light of the circumstances under which such statements were made are false and misleading with respect to material facts.

II

It appearing to the Commission that there are reasonable grounds for believing that material deficiencies exist in the application for registration filed on Form 10 in the following particulars:

The failure to disclose in response to Item 10 (b) the relationship of the registrant to persons controlling it or to state material facts pertinent to the possible existence of effective control.

The failure to state in response to Item 27 required information concerning the aggregate remuneration paid by the registrant, directly or indirectly, to certain management or service companies, attorneys, accountants, or other persons, who are persons other than directors, officers, or employees, and whose aggregate remuneration from the registrant, in all capacities, exceeded $20,000 during the fiscal year ended December 31, 1934.

The failure to state in response to Item 34 required information relating to revaluations in Plant, Property and Equipment, or in Intangible Assets, which revaluations in the aggregate in respect of the consolidated balance sheet of the registrant and its subsidiaries as of December 31, 1934, were in excess of $100,000,000.

It further appearing to the Commission that there are reasonable grounds for believing that the financial statements for the fiscal year ended December 31, 1934, in said application are false and misleading in the following particulars or are materially misleading in that they fail adequately to disclose the effect of the treatment accorded the items herein cited:

A. The failure to state correctly the amount of fixed capital represented by plant, property and equipment appearing in the consolidated balance sheet of the registrant and its subsidiaries and the failure to explain adequately the basis of determining such amount.

B. The failure to charge to registrant's income account the amounts represented by:

1. Charges of $2,321,054.63 to Corporate (Earned) Surplus representing "Expenses of Plan of Rearrangement of Debt Capitalization"

2. Charges of debt discount and expense before maturity to Capital Surplus to the extent that such charges should have been made to the income account under a periodic amortization plan

which had the effect of understating the net loss in the registrant's income account.

C. The failure to charge to consolidated income account the amounts represented by:

1. Charges to Corporate (Earned) Surplus of:

(i) Expense of Plan of Rearrangement of Debt Capitalization	$2,321,054.63
(ii) Unpaid interest and cumulative preferred dividends (on minority interests) of subsidiaries consolidated	504,671.48

2. Charges of debt discount and expense before maturity to Capital Surplus to the extent that such charges should have been made to the income account under a periodic amortization plan

which had the effect of understating the net loss in the consolidated income account of the registrant and its subsidiaries consolidated.

D. The failure to reflect in registrant's Corporated (Earned) Surplus the amounts represented by:

1. Charges to a reserve created out of Capital Surplus of:

(i) Write-down of investment in a subsidiary	$2,000,000.00
(ii) Write-off of portion of indebtedness of a subsidiary	40,000,000.00

2. Charges of debt discount and expense to Capital Surplus which should have been charged to income account under a periodic amortization plan.

E. Retaining in consolidated Corporate (Earned) Surplus, after the transfer as of December 31, 1934, of the registrant's corporate deficit of $12,435,028.56 to Capital Surplus, the Corporate (Earned) Surplus of the consolidated subsidiaries in the amount of $6,413,952.99 accumulated prior to the said transfer of registrant's corporate deficit.

F. The failure to eliminate from consolidated Corporate (Earned) Surplus the net operating profit of a subsidiary engineering company to the extent that such net operating profit included profits from construction fees charged to property accounts of other subsidiaries included in consolidation of approximately $112,000.

G. The failure to reflect in consolidated Corporate (Earned) Surplus the amounts represented by:

1. Charges to Capital Surplus of:

(i) Adjustment of excess reproduction cost valuations of fixed capital, and excess reproduction cost of property retired or sold (net)	$5,442,380.72
(ii) Reduction of book values of certain undeveloped water power properties and other property	1,759,374.05

2. Charges of debt discount and expense to Capital Surplus which should have been charged to income account under a periodic amortization plan.

3. Charges in consolidation to Reserve created out of Capital Surplus and to Plant, Property and Equipment (recorded on the books of subsidiaries by charges to capital surplus or surplus at acquisition) of:

(i) Debt discount and expense.

(ii) Net losses on sales of bonds of consolidated companies by other than the issuing company.

(iii) Net losses on other security transactions.

(iv) Reductions in book value of investments.

all of which in the aggregate amount to approximately $130,000,000. Of this amount $60,000,000 has been eliminated in consolidation against a reserve created out of Capital Surplus. The balance, approximately $70,000,000, has been added to the uneliminated balance in investments of subsidiaries, and is reflected in the Plant, Property and Equipment account in the consolidated balance sheet. This procedure results in an overstatement of Corporate (Earned) Surplus of approximately $130,000,000, an understatement of Capital Surplus of $60,000,000, and an overstatement of Plant, Property and Equipment of approximately $70,000,000.

H. The inclusion in the income account of the registrant of credits for interest and dividends on the basis of the practice of certain subsidiary companies of taking up as earnings available for interest and dividends, the undistributed earnings of their subsidiaries and in respect of the effect of such practice.

I. The failure to state material facts in respect of contingent liabilities in connection with pending litigation.

J. The failure of the registrant to furnish financial statements certified in accordance with the requirements set forth in the instruction Book for Form 10.

It further appears to the Commission that there are reasonable grounds for believing that the registrant has failed adequately to disclose the effect of the treatment accorded items cited herein.

It further appears to the Commission that there are reasonable grounds for believing that the cumulative effect of the treatment accorded items cited herein is materially misleading.

III

It appearing to the Commission that there are reasonable grounds for believing that the following material deficiencies exist in the annual report filed on Form 10–K for the fiscal year ended December 31, 1935:

The failure to disclose in response to Item 1 (b) the relationship of the registrant to the persons controlling it or to state material facts pertinent to the possible existence of effective control.

The failure to state in response to Item 11 required information concerning the aggregate remuneration paid by the registrant, directly or indirectly, to certain management or service companies, attorneys, accountants, or other persons who are persons other than directors, officers, or employees, and whose aggregate remuneration from the registrant, in all capacities, exceeded $20,000 during the fiscal year ended December 31, 1935.

It further appearing to the Commission that there are reasonable grounds for believing that the financial statements in the annual report for the year 1935 are false and misleading in the following particulars or are materially misleading in that they fail adequately to disclose the effect of the treatment accorded the items herein cited:

A. The failure to state correctly the amount of fixed capital represented by plant, property and equipment appearing in the consolidated balance sheet of the registrant and its subsidiaries and the failure to explain adequately the basis of determining such amount.

B. The failure to charge to registrant's income account the amounts represented by:

1. Charges of $1,150,273.86 to Corporate (Earned) Surplus representing "Expense of Plan of Rearrangement of Debt Capitalization"

2. Charges of debt discount and expense before maturity to Capital Surplus to the extent that such charges should have been made to the income account under a periodic amortization plan

which had the effect of understating the net loss in registrant's income account.

C. The failure to charge to consolidated income account the amounts represented by:

1. Charges to Corporate (Earned) Surplus of:

(i) Expense of Plan of Rearrangement of Debt Capitalization	$1,150,273.86
(ii) Expenses in connection with various investigations, Wheeler-Rayburn Bill, legal cases, etc	1,810,245.90
(iii) Preferred Dividends (on minority interest) of subsidiaries consolidated	429,956.38

2. Charges of debt discount and expense before maturity to Capital Surplus to the extent that such charges should have been made to the income account under a periodic amortization plan

which had the effect of overstating the net income in the consolidated income account of the registrant and its subsidiaries consolidated.

D. The failure to reflect in registrant's Corporated (Earned) Surplus the amounts represented by:

1. Charges to Capital Surplus of $1,874,972.92 arising from exchange between the company and a subsidiary of securities for cancellation and loss on open account.

2. Charges of debt discount and expense to Capital Surplus which would have been charged to income account under a periodic amortization plan.

3. Charges of $10,300,000 to a reserve created out of Capital Surplus representing write-down of investments in a subsidiary.

E. Retaining in consolidated Corporate (Earned) Surplus, after the transfer of $12,435,028.56 as of December 31, 1934, and $4,027,179.11 as of December 31, 1935, of registrant's corporate deficit to Capital Surplus, the Corporate (Earned) Surplus of the consolidated subsidiaries in the amount of $7,339,550.81 accumulated prior to such transfers of registrant's corporate deficit.

F. The failure to eliminate from consolidated Corporate (Earned) Surplus the net operating profit of a subsidiary engineering company to the extent that such net operating profit included profits resulting from construction fees charged to property accounts of other subsidiaries included in consolidation of approximately $223,000.00.

G. The failure to reflect in consolidated Corporate (Earned) Surplus the amounts represented by:

1. Charges to Capital Surplus of:

(i) Unamortized debt discount and expense on bonds retired in connection with readjustment of debt of Florida Public Service Company, under Section 77B of the Bankruptcy Act, as amended	$1,029,643.10
(ii) Reduction in book value of Miscellaneous Investments	401,380.00

2. Charges of debt discount and expense to Capital Surplus which should have been charged to income account under a periodic amortization plan.

3. Charges in consolidation to Reserve created out of Capital Surplus and to Plant, Property and Equipment (recorded on the books of subsidiaries by charges to capital surplus or surplus at acquisition) of:

(i) Debt discount and expense.

(ii) Net losses on sales of bonds of consolidated companies by others than the issuing company.

(iii) Net losses on other security transactions.

(iv) Reductions in book value of investments.

all of which in the aggregate amount to approximately $130,000,000. Of this amount $49,700,000 has been eliminated in consolidation against a reserve created out of Capital Surplus. The balance of approximately $80,300,000 has been added to the uneliminated balance in investments of subsidiaries, and is reflected in Plant, Property, and Equipment in the consolidated balance sheet. This procedure results in an overstatement of consolidated Corporate (Earned) Surplus of approximately $130,000,000, an understatement of Capital Surplus of $49,700,000, and an overstatement of Plant, Property and Equipment of approximately $80,300,000.

H. The inclusion in the income account of the registrant of credits for interest and dividends on the basis of the practice of certain subsidiary companies of taking up as earnings available for interest and dividends, the undistributed earnings of their subsidiaries and in respect of the effect of such practice.

I. The failure to state material facts in respect of contingent liabilities in connection with pending litigation.

J. The failure of the registrant to furnish financial statements certified in accordance with the requirements set forth in the Instruction Book for Form 10–K.

It further appears to the Commission that there are reasonable grounds for believing that the registrant has failed adequately to disclose the effect of the treatment accorded items cited herein.

It further appears to the Commission that there are reasonable grounds for believing that the cumulative effect of the treatment accorded items cited herein is materially misleading.

IV

It appearing to the Commission that there are reasonable grounds for believing that the following material deficiencies exist in the annual report filed on Form 10–K for the fiscal year ended December 31, 1936;

The failure to disclose in response to Item 1 (b) the relationship of the registrant to the persons controlling it or to state material facts pertinent to the possible existence of effective control.

The failure to state in response to Item 11 required information concerning the aggregate remuneration paid by the registrant, directly or indirectly, to certain management or service companies, attorneys, accountants, or other persons who are persons other than directors, officers, or employees and whose aggregate remuneration from the registrant, in all capacities, exceeded $20,000 during the fiscal year ended December 31, 1936.

It further appearing to the Commission that the financial statements in the annual report for the year 1936 are false and misleading in the following

particulars or are materially misleading in that they fail adequately to disclose the effect of the treatment accorded the items herein cited:

A. The failure to state correctly the amount of fixed capital represented by plant, property and equipment appearing in the consolidated balance sheet of the registrant and its subsidiaries and the failure to explain adequately the basis of determining such amount.

B. The failure to charge to registrant's income account the amounts represented by:

1. Charges to Corporate (Earned) Surplus of:

(i) Expense of Plan of Rearrangement of Debt Capitalization	$799,140.66
(ii) Interest on obligations convertible into stock at company's option, accrued but not due at December 31, 1936	314,864.09
(iii) Other interest charges	96,783.48

2. Charges to Capital Surplus of interest on obligations convertible into stock at company's option, paid in script, applicable to 1936, $2,744,598.24.

3. Charges of debt discount and expense before maturity to Capital Surplus to the extent that such charges should have been made to the income account under a periodic amortization plan

which had the effect of understating the net loss in the registrant's income account.

C. The failure to charge to consolidated income account the amounts represented by:

1. Charges to Corporate (Earned) Surplus of:

(i) Expense of Plan of Rearrangement of Debt Capitalization	$799,140.66
(ii) Interest on obligations convertible into stock at company's option, accrued but not due at December 31, 1936	287,017.58
(iii) Out-of-the-ordinary expenses in connection with various investigations, legal cases, etc	1,034,985.76

2. Charges to Capital Surplus of interest on obligations convertible into stock at company's option, paid in scrip, applicable to 1936, $2,555,278.94.

3. Charges of debt discount and expense before maturity to Capital Surplus to the extent that such charges should have been made to the income account under a periodic amortization plan

which had the effect of overstating the net income in the consolidated income account of the registrant and its subsidiaries consolidated.

D. The failure to reflect in registrant's Corporated (Earned) Surplus the amounts represented by:

1. Charges to Capital Surplus of $10,710,916.20 representing interest on obligations convertible into stock at company's option.

2. Charges of debt discount and expense to Capital Surplus which should have been charged to income account under a periodic amortization plan.

E. Retaining in consolidated Corporate (Earned) Surplus, after the transfer of $12,435,028.56 as of December 31, 1934, and $4,027,179.11 as of December 31, 1935, of registrant's corporate deficit to Capital Surplus, the Corporate (Earned) Surplus of the subsidiaries consolidated in the amount of $7,339,550.81 accumulated prior to such transfers of registrant's corporate deficit.

F. The failure to reflect in consolidated Corporate (Earned) Surplus amounts represented by:

1. Charges to Capital Surplus of:

(i) Interest on obligations convertible into stock at company's option	$9,953,638.70
(ii) Reduction in carrying value of investment in affiliated company, due to intercompany sale	294,240.00
(iii) Adjustment of excess reproduction cost of fixed capital, and excess reproduction cost of property retired or sold (net)	1,334,395.99

2. Charges of debt discount and expense to Capital Surplus which should have been charged to income account under a periodic amortization plan.

3. Charges in consolidation to Reserve created out of Capital Surplus and to Plant, Property and Equipment (recorded on the books of subsidiaries by charges to capital surplus or surplus at acquisition) of:

(i) Debt discount and expense.

(ii) Net losses in transactions in bonds of consolidated companies.

(iii) Net losses on other security transactions.

(iv) Reductions in book value of investments.

all of which in the aggregate amount to approximately $130,000,000. Of this amount $49,700,000 has been eliminated in consolidation against a reserve created out of Capital Surplus. The balance of approximately $80,300,000 has been added to the uneliminated balance in investments of subsidiaries and reflected in Plant, Property and Equipment in the consolidated balance sheet. This procedure results in an overstatement of Corporate (Earned) Surplus of approximately $130,000,000, an understatement of Capital Surplus of $49,700,000, and an overstatement of Plant, Property and Equipment of approximately $80,300,000.

G. The inclusion in the income account of the registrant of credits for interest and dividends on the basis of the practice of certain subsidiary companies of taking up as earnings available for interest and dividends, the undistributed earnings of their subsidiaries and in respect of the effect of such practice.

H. The failure to state material facts in respect of contingent liabilities in connection with pending litigation.

I. The failure of the registrant to furnish financial statements certified in accordance with the requirements set forth in the Instruction Book for Form 10–K.

It further appears to the Commission that there are reasonable grounds for believing that the registrant has failed adequately to disclose the effect of the treatment accorded items cited herein.

It further appears to the Commission that there are reasonable grounds for believing that the cumulative effect of the treatment accorded items cited herein is materially misleading.

V

It appearing to the Commission that there are reasonable grounds for believing that the following material deficiencies exist in the annual report filed on Form 10–K for the fiscal year ended December 31, 1937;

The failure to disclose in response to Item 1 (b) the relationship of the registrant to the persons controlling it or to state material facts pertinent to the possible existence of effective control.

The failure to state in response to Item 11 required information concerning the aggregate remuneration paid by the registrant, directly or indirectly, to certain management of service companies, attorneys, accountants or other persons other than directors, officers, or employees and whose aggregate remuneration from the registrant, in all capacities, exceeded $20,000 during the fiscal year ended December 31, 1937.

It further appearing to the Commission that the financial statements in the annual reports for the year 1937 are false and misleading in the following particulars or are materially misleading in that they fail adequately to disclose the effect of the treatment accorded the items herein cited:

A. The failure to state correctly the amount of fixed capital represented by plant, property and equipment appearing in the consolidated balance sheet of the registrant and its subsidiaries and the failure to explain adequately the basis of determining such amount.

B. The failure to charge to registrant's income account the amounts represented by charges to Corporate (Earned) Surplus of:

(i) Expenses of Plan of Rearrangement of Debt Capitalization	$444,385.21
(ii) Interest on obligations convertible into stock at company's option	1,959,387.58
(iii) Interest on scrip certificates	325,700.22
(iv) Additional interest on sinking fund income debentures	73,815.08

which had the effect of overstating the net income in the registrant's income account,

C. The failure to charge to consolidated income account the amounts represented by:

1. Charges to Corporate (Earned) Surplus of:

(i) Expenses of Plan of Rearrangement of Debt Capitalization	$634,078.95
(ii) Interest on obligations convertible into stock at company's option	1,825,857.77
(iii) Interest on scrip certificates	299,400.03
(iv) Additional interest on income debentures	16,664.41

2. Applicable portion of charges to Capital Surplus in prior years of net losses on sale of bonds of consolidated companies by other than the issuing company.

which had the effect of overstating the net income in the consolidated income account.

D. The failure to reflect in Corporate (Earned) Surplus in the consolidated balance sheet the amounts represented by:

1. Charges to Capital Surplus of:

(i) Reduction in carrying value of investments in affiliated companies, and other investments	$20,738,368.85
(ii) Additional surplus applied in consolidation against carrying value of investments in subsidiaries	9,739,790.57
(iii) Excess reproduction costs of fixed capital retired	309,204.02
(iv) Fixed Capital Retirements Charged to surplus of subsidiaries at acquisition	497,067.74

2. Charges to Capital Surplus in prior years of net losses on sales of bonds of consolidated companies by other than the issuing company.

3. Charges in consolidation to Reserve created out of Capital Surplus or to Plant, Property and Equipment (recorded on the books of subsidiaries by charges to capital surplus or surplus at acquisition) of:

(i) Debt discount and expense.

(ii) Net losses on sales of bonds of consolidated companies by other than the issuing company.

(iii) Net losses on other security transations.

(iv) Reductions in book value of investments.

all of which result in an overstatement of the Corporate (Earned) Surplus in the consolidated balance sheet in the amount of approximately $130,000,000.

E. The inclusion in the income account of the registrant of credits for interest and dividends on the basis of the practice of certain subsidiary companies of taking up as earnings available for interest and dividends, the undistributed earnings of their subsidiaries and in respect of the effect of such practice.

F. The failure to state material facts in respect of contingent liabilities in connection with pending litigation.

G. The failure of the registrant to furnish financial statements certified in accordance with the requirements set forth in the Instruction Book for Form 10–K.

It further appears to the Commission that there are reasonable grounds for believing that the registrant has failed adequately to disclose the effect of the treatment accorded items cited herein.

It further appears to the Commission that there are reasonable grounds for believing that the cumulative effect of the treatment accorded items cited herein is materially misleading.

VI

The Commission being of the opinion that pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, a hearing should be held to determine whether the Associated Gas and Electric Company has failed to comply with the provisions of Sections 12 (b) and 13 (a) and (b) of said Act and the rules and regulations promulgated thereunder, or with any provisions of either of said Sections or of any of said rules or regulations; and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months or to withdraw the registration of said Common Stock, $1 Par Value, on the Boston Stock Exchange, and said Class A Stock, $1 Par Value, on the Boston Stock Exchange, the Los Angeles Stock Exchange and the New York Curb Exchange.

It is ordered, That a public hearing be held for such purpose before the officer of the Commission herein designated, beginning on the 14th day of February, 1939, at 10:00 A. M., in Room 1103 at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and to continue thereafter at such times and places as said officer may determine; and

It is further ordered, That for the purpose of such proceeding, William W. Swift, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39–221; Filed, January 19, 1939; 11:16 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of January 1939.

[File No. 1–2081]

IN THE MATTER OF MOBILE AND OHIO RAILROAD COMPANY GENERAL MORTGAGE 4% GOLD BONDS, DUE SEPTEMBER 1, 1938

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X–12D2–1 (b) promulgated thereunder, having made application to strike from listing and registration the General Mortgage 4% Gold Bonds, due September 1, 1938, of Mobile and Ohio Railroad Company; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on January 26, 1939.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39–223; Filed, January 19, 1939; 11:16 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of January 1939.

[File No. 1–2825]

IN THE MATTER OF THE TROXEL MANUFACTURING COMPANY COMMON STOCK, PAR VALUE $1

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Troxel Manufacturing Company pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X–12D2–1 (b) promulgated thereunder, having made application to the Commission to withdraw its Common Stock, Par Value $1, from listing and registration on the Cleveland Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, February 16, 1939, at the office of the Securities & Exchange Commission, 1370 Ontario Street, Cleveland, Ohio, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Dan T. Moore, Jr., an officer of the Commission,

[1] 3 F. R. 2816 DI.

be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39-224; Filed, January 19, 1939; 11:17 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of January, A. D. 1939.

[File No. 31-131]

IN THE MATTER OF UNION ELECTRIC POWER CORPORATION

ORDER CANCELLING HEARING AND CONSENTING TO WITHDRAWAL UNDER PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

Upon the request of the applicant, the Commission hereby cancels the hearing now set for January 23, 1939 and consents to the withdrawal of the application of the above-named applicant, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39-225; Filed, January 19, 1939; 11:17 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of January, A. D. 1939.

IN THE MATTER OF AN OFFERING SHEET FILED BY JAMES E. HUGHES, RESPONDENT, COVERING NON-PRODUCING WORKING INTERESTS IN THE HUGHES-LUCIA BROOKS PERMIT

ORDER FOR HEARING AND ORDER DESIGNATING TRIAL EXAMINER

The Securities and Exchange Commission, having on December 23, 1938, pursuant to Rule 340 (a) of the General Rules and Regulations under the Securities Act of 1933, entered an order temporarily suspending the effectiveness of the offering sheet, filed on December 17, 1938 by James E. Hughes covering non-producing working interests in the Hughes-Lucia Brooks Permit, and the respondent having filed a written request for a hearing in accordance with the provisions of said Rule;

It is ordered, Pursuant to Rule 340 (a) of the General Rules and Regulations promulgated by the Commission under the Securities Act of 1933, that a hearing be held for the purpose of determining whether said offering sheet is incomplete or inaccurate in any material respect, or omits to state any material fact necessary to make the statements therein contained not misleading, or fails to comply with any requirements of Regulation B of such General Rules and Regulations in the respect, or respects, noted in the Temporary Suspension Order entered on December 23, 1938; and

It is further ordered, That Henry Fitts, an officer of the Commission be, and hereby is, designated as Trial Examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to said offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, That the taking of testimony in this proceeding commence on the 23rd day of January, 1939, at 10:00 o'clock in the morning at the Regional Office of the Securities and Exchange Commission, 105 West Adams Street, Chicago, Illinois, and continue thereafter at such times and places as said Examiner may designate.

Upon the completion of testimony in this matter the Examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39-222; Filed, January 19, 1939; 11:16 a. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS SATURDAY, JANUARY 14, 1939

Important.—Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Puerto Rico	593	41
2. Hawaii	141	15
3. California	2,179	789
4. Alaska	23	9
5. Texas	2,236	901
6. Louisiana	807	379
7. Michigan	1,859	881
8. Arizona	167	85
9. New Jersey	1,551	818
10. South Carolina	667	385
11. Ohio	2,552	1,533
12. Oklahoma	920	566
13. Mississippi	772	476
14. Alabama	1,016	631
15. Arkansas	712	445
16. New Mexico	162	104
17. Georgia	1,117	747
18. North Carolina	1,217	822
19. Kentucky	1,004	684
20. Tennessee	1,004	770
21. Wisconsin	1,128	866
22. Illinois	2,929	2,257
23. Connecticut	617	494
24. Oregon	366	318
25. Delaware	91	81
26. Indiana	1,243	1,107
27. Florida	564	523
28. Nevada	35	33
29. Idaho	171	163
30. Pennsylvania	3,697	3,526
31. New York	4,833	4,620
22. Utah	195	194
33. Maine	306	305
34. West Virginia	664	662
QUOTA FILLED		
35. Wyoming	87	87

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1938
IN EXCESS			
36. Massachusetts	1,631	1,635	+4
37. Missouri	1,393	1,413	−52
38. New Hampshire	179	182	+9
39. Kansas	722	741	−1
40. Vermont	138	143	−1
41. Washington	600	623	+50
42. Minnesota	984	1,026	−51
43. North Dakota	261	275	+18
44. Colorado	398	419	+23
45. Montana	206	221	−12
46. Rhode Island	264	290	+25
47. South Dakota	266	301	+7
48. Iowa	949	1,096	−9
49. Nebraska	529	626	−16
50. Virginia	930	1,944	−24
51. Maryland	626	1,874	+8
52. District of Columbia	187	8,765	+2

GAINS	
By appointment	214
By reinstatement	2
By transfer	22
By correction	3
Total	241
LOSSES	
By separation	31
By transfer	47
Total	78
Total appointments	47,890

Note: Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's opinion of Aug. 25, 1934, 14,499.

By direction of the Commission.

[SEAL] L. A. MOYER, *Executive Director and Chief Examiner.*

[F. R. Doc. 39-218; Filed, January 19, 1939; 9:16 a. m.]